IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7838 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SUNITABEN WD/O DECD.RAJENDRA SHIV GOPAL TRIVEDI

Versus

STATE OF GUJARAT AND OTHERS

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Appearance :
MR UMANG K CHOKSI for the Petitioner
MS AC RAVAL, ASSISTANT GOVERNMENT PLEADER for the Respondents

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CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 04/08/2006

ORAL JUDGMENT

1. Widow of Shri Rajendrakumar ShivGopal Trivedi, who purchased a property by registered sale deed dated 02.05.2000 is before this Court as she is aggrieved by order dated 03.11.2001.

2. It is the case of the petitioner that after purchasing the property in the year 2000, her husband died on 29.06.2002. She did not know anything about the passing of the order dated 03.11.2001 until, in January, 2006, some officers/personnel from Revenue Department visited the place of the petitioner somewhere in the month of January, 2006.

Soon thereafter, she contacted the learned advocate, who then obtained a certified copy of order dated 03.11.2001 on 18.02.2006.

3. Ms.Archana C.Raval, learned Assistant Government Pleader submitted that in the month of February, 2006, an attachment notice was sent to the petitioner. The learned Assistant Government Pleader made available a xerox copy of the acknowledgment receipt which bears a signature, “for S.Trivedi”.

4. Learned advocate for the petitioner submitted that the petitioner is a widowed lady, the property was purchased by her husband in the year 2000, but thereafter, her husband died in the year 2002. She did not know about the impugned order dated 03.11.2001, until January, 2006. Immediately after the place of the petitioner was visited by the revenue officers/personnel, she obtained a certified copy of the order to approach this Court by way of this petition.

The submission of the learned advocate for the petitioner is that order dated 03.11.2001 might have been served to the deceased husband of the petitioner, but then she did not know anything about the same as she was not required to attend these matters, until she is compelled to do so on sad demise of her husband.

5. Learned advocate for the petitioner submitted that an opportunity of personal hearing be granted to the petitioner to enable her to represent her case before the authorities, who after taking into consideration the same, may decide afresh.

6. In the peculiar facts and circumstances of this case, like the widow is required to attend the matter under compulsion and she did not know anything about the matter prior to the death of her husband, the Court is of the opinion that the order dated 03.11.2001 be quashed and set aside and the authorities be directed to decide the matter afresh, after giving an opportunity to make representation including the personal hearing to the petitioner. Order accordingly,

The matter is remanded to the authority – respondent No.3 (Deputy Collector (Stamp Duty) to consider the matter afresh and pass reasoned order after taking into consideration the representation of the petitioner and the submissions made during the personal hearing.

7. It will be open to the petitioner to point out and place the decisions of this Court before the authority at the time of hearing of the matter.

Initially, the petitioner shall remain present before the authority on 31.08.2006 at 11.00 AM. It will be open to the authority to fix future schedule of hearing on that day. The petition is disposed of with the aforesaid directions. Rule is made absolute with no order as to costs. Direct service is permitted.

(RAVI R.TRIPATHI, J.)

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